

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

MARVIN LIDDELL LOTT,	)	
Register No. 198045,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 05-4246-CV-C-SOW
	)	
DAVID DORMIRE, et al.,	)	
	)	
Defendants.	)	

**ORDER**

On March 6, 2006, the United States Magistrate Judge recommended denying plaintiff's motions for preliminary injunctive relief, granting defendants' motion to dismiss and dismissing plaintiff's claims, without prejudice, for failure to exhaust administrative remedies, pursuant to 42 U.S.C. § 1997e. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record<sup>1</sup>, including the exceptions and motion for recusal of Magistrate Judge William A. Knox, filed by plaintiff on April 7, 2006. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Because plaintiff's claims in this lawsuit are being dismissed for failure to exhaust administrative remedies, the January 17, 2006 Recommendation of the Magistrate Judge to dismiss plaintiff's claims against defendant David Corseica, pursuant to Fed. R. Civ. P. 4(m), is moot. Furthermore, plaintiff's motion for the recusal of the Magistrate Judge from pretrial processing matters in this case is also moot and is denied.

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<sup>1</sup>Court proceedings, if any, are recorded by electronic recording equipment and the tapes are available for review by the court and counsel.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the January 17, 2006 Report and Recommendation of the Magistrate Judge is moot [55]. It is further

ORDERED that plaintiff's motion for recusal of Magistrate Judge William A. Knox is denied as moot [62]. It is further

ORDERED that the Magistrate Judge's March 6, 2006 Report and Recommendation is adopted [58]. It is further

ORDERED that plaintiff's motions for preliminary injunctive relief are denied, without prejudice [35, 39, 45, 53, 54, 57]. It is further

ORDERED that defendants' motion to dismiss is granted and plaintiff's claims are dismissed, without prejudice, for failure to exhaust administrative remedies pursuant to 42 U.S.C. 1997e. [44].

/s/Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

Dated: May 23, 2006